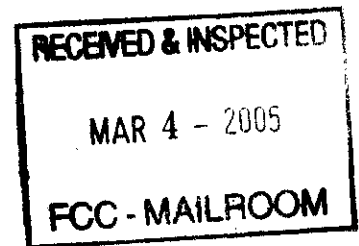


**Request for Review
Re: Cincinnati City School District App # 376499**

March 3, 2005

**Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743**



**Re: CC Docket No. 02-6
Request for Review**

Contact Information:

Name: Cincinnati City School District (CPS)
Andy Dively
Director, Information Technology Services
Address: 2651 Burnet Ave
Cincinnati, OH 45219
Phone: 513-363-0366
Fax: 513-363-0365
e-mail: divelya@cpsboe.k12.oh.us

SLD action being appealed: This is an appeal of the Commitment Adjustment Letter for Funding Year 2003-2004, dated January 5, 2005.

Applicant Name:	Cincinnati City School District
Form 471 Application #:	376499
Billed Entity #:	129871
Funding Request Number:	1032245
SPIN:	143026079
Service Provider:	Blackwell Consulting Services of Ohio, LLC
Contract Number:	PO#396929
Services Ordered:	Internal Connections
Original FRN Amount:	\$ 2, 225,000.00
Adjusted Funding Commitment:	0.00

Text from Commitment Adjustment Letter: "After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that the applicant did not have a contract or legally binding agreement in place at the time of submission of the Form 471."

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Request for Review
Re: Cincinnati City School District App # 376499

Basis for Appeal -Overview: We focus our Appeal on two main issues.

1. We contend that the SLD's definition of a 'legally binding contract' has changed significantly since February 2003. We contend that the SLD's COMAD decision was based, in error, on a revised and stronger definition that was not in effect at the time of CPS's Year 2003 filing. We strongly disagree with the SLD's action of using newly revised guidelines as a basis for judging past performance by program applicants and reversing decisions based on revised rules.
2. We contend that CPS fully complied with both the letter and intent of the rules in effect at the time. CPS's knowledge of and adherence to the SLD's procedures is evidenced by their entire application process, including filing a valid Form 470, posting an RFP on their website, observance of the 28-day waiting period, evaluation of all bids received, awarding the bid to a valid service provider and issuing a Purchase Order – all before filing a valid FCC Form 471.

Details of these arguments are given below. All references cited in this appeal are included in full as attachments. We have included a timeline showing a complete history of events as Attachment D.

Basis for Appeal - Details:

1. The SLD's requirement for 'signed contracts', which forms the basis for its decision, has changed since CPS's Funding Request in February 2003. This fact is acknowledged by the COMAD letter itself when it states:

“Prior to Funding Year 2004, the Commission interpreted this rule to require a legally binding agreement at the time the Form 471 was submitted, but not necessarily a signed contract.”

We conclude that since the COMAD letter acknowledges this change, that the SLD either fails to recognize the significance of the change or that it maintains that CPS did not satisfy even the earlier requirements. We disagree with both explanations. The difference between an 'agreement' and a 'contract' is significant. Once the bidding procedures are complete, the district can (and did) execute an 'agreement' that commits both service provider and applicant to actually perform work. Attachment G – P.O. Certainly we can all acknowledge that detailed contract negotiations can take months.

We argue that the SLD is denying or ignoring the distinction between an 'agreement' and a 'contract' and that this denial is incorrectly and unjustly holding CPS to a standard only recently put in place.

Request for Review
Re: Cincinnati City School District App # 376499

2. CPS fully complied with the requirements for a 'legally binding agreement' prior to signing the FCC Form 471.

We cite the following SLD and Service Provider sources that substantiate this point.

a) FCC Written Instructions:

“Signed Contracts: You MUST have a signed contract (or a legally binding agreement between you and your service provider preparatory to a formal signed contract) for all services you order on your Form 471...”

Source: FCC Form 471 Instructions - November 2001 – Page 19

These are the exact actions taken by CPS by issuing a valid Purchase Order prior to filing the 471, followed up by a formal signed contract prior to start of work and the Form 486. Indeed, we contend that the general understanding among applicants, service providers and the SLD itself was to assure the commitment of funds to a valid service provider prior to submission of a funding request (Form 471). Large, complex project requirements change over time. We contend that is not uncommon for applicants to forego the detailed ‘statements of work’ and final contract negotiations until work is to begin. We contend that the requirement which was in place, was to have a detailed contract in place prior to filing a Form 486.

b) Oral (and written) directions from SLD’s Vendor Support Team

We submit the following text from the minutes of one of the SLD’s weekly conference calls held to answer vendor’s’ questions on this very topic. This exchange took place in December 2002 – two months before CPS’s actions.

Q. (in writing from Service Provider).

If an applicant is contracting with us for services, does the applicant need a signed contract in place before submitting the 471?

A. (in writing from SLD)

The applicant must have a legally binding agreement in place by the time the 471 is submitted. Examples of such documents include a Purchase Order, a bid signed by both the applicant and the service provider, or a letter from the applicant’s purchasing department awarding the bid to the named service provider. NOTE: The contract MUST be signed and in place by the time the discounted services begin (see the certification in Form 486, Item 9)

Source: Minutes from the Wednesday Service Provider Conference Call – December 18, 2002, page 2, www.sl.universalservice.org

Request for Review
Re: Cincinnati City School District App # 376499

Prior to the denial, CPS submitted the Purchase Order and the Signed Contract to the SLD as evidence of proper behavior. The COMAD Letter acknowledges this but goes on to state that

“since the purchase order, on its face, indicates that it is contingent upon successful negotiation of a terms and conditions contract, the purchase order does not provide evidence of a legally binding agreement...”

Clearly something has changed. The COMAD letter faults CPS for doing exactly what the SLD had prescribed.

c) **Service Provider Instructions to Applicants:**

We realize that the SLD is not responsible for the following, but we have included it to demonstrate the broad base of understanding in the best business practices in place at the time. Service providers and state agencies frequently provide school districts with guidance on E-Rate filing issues. The following text is from the website of Merit Network, Inc, a well-known and respected non-profit association based in Michigan.

Step 3: Sign Contract: After the 28 day waiting period (the Allowable Contract Date on the Form 470), enter into a contract with the selected provider. To enter a contract with Merit, send us a signed Purchase Order. Your signed PO and Merit’s proposal together form a legally binding contract.

Source: Erate Checklist – Funding Year 2004, October, 2003
Merit Network Inc., www.merit.edu

We contend that CPS’s signed Purchase Order, along with the winning proposal from Blackwell Consulting, together formed a legally binding agreement as defined and understood in February 2003. (See, e.g. ORC § 1302.09) Attachment H.

Summary:

We disagree with the SLD’s decision based on a fundamental question of fairness. We submit that the decision was made without regard to the guidelines in place at the time of 471 submittal as evidenced by a broad range of documents included here.

Finally, while we do not base our appeal on the issue of timeliness, we submit that had SLD been more timely and straightforward in its approach to this matter, it could have been dealt with in a much simpler manner. This FRN underwent both a PIA review (prior to issuance of the FCDL in June, 2003) and a Special Investigation that began in November of 2003. In the seventeen months that passed between FCDL and COMAD letters, over one million dollars of work was performed in good faith by the service provider. The school district has paid its non-discounted share of all charges. During that time, the school district has been contacted many times by the service provider who has been pursuing the payment of a dozen separate, unpaid invoices issued to the SLD.

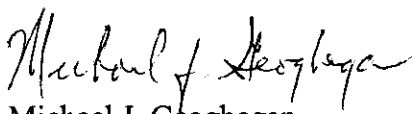
Request for Review
Re: Cincinnati City School District App # 376499

No follow-up information on the PIA or the Investigation was received and until the service provider escalated its efforts to obtain payment on all past due invoices from the SLD, no action was undertaken by SLD at all.

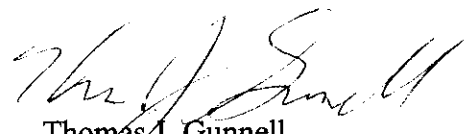
Our service provider remains unpaid and has asked us to pay the full amount, including late fees. As a result, even in the event of a favorable decision on this appeal, both the school district and the service provider have suffered significant financial loss.

Since the funding year has passed and the work is completed, we request that the SLD reconsider and reverse its COMAD decision and allocate an amount of \$1,264,582.44 to this FRN which covers the discounted portion of the work performed.

Sincerely,



Michael J. Geoghegan
Treasurer/CFO
Cincinnati City School District
2651 Burnet Ave
Cincinnati, OH 45219



Thomas J. Gunnell
Chief Operating Officer
Cincinnati City School District
2651 Burnet Ave
Cincinnati, OH 45219

Attachments Included:

- A. Commitment Adjustment Letter
Universal Service Administrative Company, January 5, 2005 – 5 pages
- B. Minutes from the Wednesday Service Provider Conference Call – December 18, 2002
www.sl.universalservice.org - 3 pages
- C. FCC Form 471 Instructions - November 2001 - 29 pages (*reference is on page 19*)
- D. CPS E-Rate Timeline for FY 2003 – 1 page
- E. Letter from Steve Chabot, Member of Congress, to Kathleen Q. Abernathy,
Commissioner, Federal Communications Commission, dated February 10, 2005 – 1 page
and
Letter from Rob Portman, Member of Congress, Assistant Majority Whip,
to Cincinnati Public Schools, dated February 4, 2005 – 1 page
- F. Merit Network Inc., E-Rate Checklist – 1 page
<http://www.merit.edu/mn/resources/erate/ErateChecklist.pdf>
- G. CPS Purchase Order No. 396629 dated 01/31/2003 - 2 pages
- H. ORC 1302.09 – 1 page

Attachment A

CINCINNATI CITY SCHOOL DIST
PO BOX 5381
CINCINNATI, OH 45201 5381



Universal Service Administrative Company
Schools & Libraries Division

COMMITMENT ADJUSTMENT LETTER

January 5, 2005

BRIAN ANDERSON
CINCINNATI CITY SCHOOL DIST
PO BOX 5381
CINCINNATI, OH 45201 5381

Re: COMMITMENT ADJUSTMENT
Funding Year 2003 -2004
Form 471 Application Number: 376499

Dear Applicant:

Our routine reviews of Schools and Libraries Program funding commitments revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, SLD must now adjust your overall funding commitments. The purpose of this letter is to make the adjustments to your funding commitments required by program rules.

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the FRNs from your application for which adjustments are necessary. The SLD is also sending this information to your service provider(s), so preparations can be made to implement this decision. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

Please note that if the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the funds disbursed. The amount is shown as Funds to be Recovered. If funds must be recovered, we will be sending your service provider a letter describing the process for recovering these funds in the near future, and we will send a copy of the letter to you. If the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount.

TO APPEAL THIS DECISION:

If you wish to appeal the Funding Commitment Decision indicated in this letter, your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Commitment Adjustment Letter you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.
3. When explaining your appeal, copy the language or text from the Commitment Adjustment Letter that is at the heart of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125- Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

- **FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each request in Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.
- **SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.
- **SERVICE PROVIDER:** The legal name of the service provider.
- **CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.
- **SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.
- **SITE IDENTIFIER:** The Entity Number listed in Form 471 for "site specific" FRNs.
- **BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.
- **ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has committed to this FRN. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.
- **FUNDS DISBURSED TO DATE:** This represents the total funds which have been paid up to now to the identified service provider for this FRN.
- **FUNDS TO BE RECOVERED:** This represents the amount of Funds Disbursed to Date that exceed the Adjusted Funding Commitment amount. These funds will have to be recovered. If the Funds Disbursed to Date do not exceed the Adjusted Funding Commitment amount, this entry will be \$0.
- **FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides a description of the reason the adjustment was made.

Funding Commitment Report for Application Number: 376499

Funding Request Number 1032245 SPIN: 143026079

Service Provider: Blackwell Consulting Services Ohio, LLC

Contract Number: PO#396929

Services Ordered: INTERNAL CONNECTIONS

Site Identifier:

Billing Account Number: 513 475 7000

Adjusted Funding Commitment: \$0.00

Funds Disbursed to Date: \$0.00

Funds to be Recovered: \$0.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that the applicant did not have a contract or legally binding agreement in place at the time of submission of the Form 471. During the course of review the Cincinnati Public Schools (CPS) was contacted and given an opportunity to demonstrate that they had a legally binding agreement in place at the time of submission of the Form 471. CPS provided a Purchase Order date January 31, 2003 to demonstrate that they did have a legally binding agreement. CPS further stated that the Purchase Order is a legally binding agreement because both parties acted on the purchase order and performed pursuant to the purchase order. However, the FCC rules require a legally binding agreement at the time the 471 was submitted. The terms of the purchase order state that it is contingent upon successful negotiation of a terms and conditions contract. Consequently, the purchase order, on its face, states that it is contingent and that the contract has not been negotiated. Since the purchase order, on its face, indicates that it is contingent upon successful negotiation of a terms and conditions contract, the purchase order does not provide evidence of a legally binding agreement at the time that the 471 was submitted. Furthermore, the contract indicates that it was signed and dated months after the submission of the 471. FCC rules require applicants to have signed a contract at the time they submit the Form 471. Prior to Funding Year 2004, the Commission interpreted this rule to require a legally binding agreement at the time the Form 471 was submitted, but not necessarily a signed contract. Since the applicant was unable to demonstrate that they had a legally binding agreement or contract in place at the time of submission of the Form 471, the commitment has been rescinded in full.

Attachment B

Graphics Off



The Universal Service Administrative Company

[Home](#) [High Cost](#) [Low Income](#) [Rural Health Care](#) [Schools & Libraries](#)

Overview

[About the SLD](#)

Training & Outreach

[2004 SP Training](#)
[WebEx Recordings](#)
[Training Presentations](#)
[Submit a Question](#)

Applicants

[Process Flowchart](#)
[Timetable/Deadlines](#)

Service Providers

[Conference Calls](#)
[Provider Manual](#)
[Invoicing](#)
[Disbursements](#)

Tools

[Commitments Search](#)
[Data Requests](#)
[Form 471 Application Status](#)
[Billed Entity Search](#)
[SPIN Search](#)
[FRN Extensions](#)
[Eligible Products Database Pilot](#)

Forms

[Applicants PIN Request System](#)
[Apply Online](#)
[Applicant Forms](#)
[Provider Forms](#)

[SL Main](#) > [Service Providers](#) > [Conference Call Schedule](#) > SP Conference Call Agenda - December 18, 2002

Minutes from the Wednesday Service Provider Conference Call December 18, 2002

UPDATE TO SPIN CHANGE GUIDANCE

We will be posting a clear, consistent streamlined document regarding SPIN changes and SPIN corrections to the web site next week. The document will describe the process for changing and correcting SPINs, and include detailed deadline information.

INVOICE DEADLINE FOR FY2001 NON-RECURRING SERVICES (01/28/03)

Reminder: For those Funding Year 2001 non-recurring services that do not have an extended date for installation or delivery (in other words, the deadline for installation and delivery is September 30, 2002), the deadline for submitting an invoice (BEAR or SPI) for those services is January 28, 2003. We will do our outreach to applicants who intend to submit BEARs for these services in early January 2003.

INFORMATION REQUEST DEADLINES APPLIED TO BEARs AND SPIs

The SLD is extending the procedure for requesting information needed to data enter or otherwise process a form to cover all forms received by SLD. The SLD will follow this procedure to attempt to reach the contact person or other representative of the entity that submitted the form in order to obtain the required information within a specific period of time. If the SLD does not receive a complete response within that time period, the SLD will attempt to process the form with the information available, which may lead to rejection or only partial processing of the form. A detailed description of this procedure is available in the document [Deadline for Information Requests](#) posted in the Reference Area of this web site.

FUNDING COMMITMENT UPDATES

Waves will continue on our regular schedule of issuing waves every two weeks; Wave 19 will be issued on schedule. Wave 18 was issued on December 17, 2002. We committed over \$15.7 million in 87 letters to schools and libraries, putting us at \$1.57 billion committed in over 27,000 letters for Funding



QUICK LINKS

Apply Online

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- [Site Map](#)
- [Site Tour](#)
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Attachment B

at \$1.57 billion committed in over 27,500 letters for funding Year 2002. Uncertainty still exists at this time about funding Internal Connections requests in the 80% to 89% discount bands. Applications that include Priority 2 requests in those bands can proceed to commitment once the entire application has been reviewed; the Internal Connections FRNs will show "As yet unfunded" on the applicant's Funding Commitment Decision Letter (FCDL). As soon as we have information about whether the funding threshold can move below 90%, we will share that information.

NO CALL ON JANUARY 1, 2003

Since our next call would normally be held on Wednesday, January 1, 2003, we are canceling the call.

QUESTIONS AND ANSWERS

- Q What if a funding request for Priority 1 end-to-end service does not comply with program rules?
- A It depends on how the service does not comply with program rules. A description of the process the SLD uses to review Priority 1 requests which include an equipment component can be found in Service Categories: SLD Adjustment Process posted in the Reference Area of this web site.
- Q Is it acceptable for applicants to post a Form 470 with vague information?
- A If an RFP is not available, the applicant must describe the service or function and the quality and/or capacity of the services desired. This can be as simple as "high-speed Internet access" (service or function) for "the entire school building of 25 classrooms" (quantity and/or capacity).
- Q If schools post a vague Form 470 with the intention of discouraging bidders, can we place a Code 9 call describing the situation and naming the school?
- A Yes.
- Q If an applicant is contracting with us for services, does the applicant need a signed contract in place before submitting the Form 471?
- A The applicant must have a legally binding agreement in place by the time the Form 471 is submitted. Examples of such documents include a Purchase Order, a bid signed by both the applicant and the service provider, or a letter from the applicant's purchasing department awarding the bid to the named service provider. NOTE: The contract MUST be signed and in place by the time

Attachment B

discounted services begin (see the certification in Form 486 Item 9).

Q Can we modify erroneous information on a form?

A Only applicants can modify the information on a form.

Q Who can request a SPIN change?

A A SPIN change — a change in the service provider — is requested by the applicant. Service providers can provide information to the SLD about situations where the SPIN has changed due to a merger or acquisition (a corrective SPIN change). If the effect of a merger or acquisition will change one or more SPINs across the board, such a change is called a "global" SPIN change.

Q Are the waves smaller because of a bottleneck in processing forms?

A No. We run waves every two weeks on all reviewed applications that are ready for commitment, instead of waiting to reach a specific dollar amount or a specific number of applications.

Q How many more waves can we expect?

A We don't know, but we are working hard to complete the process. We will continue to issue a wave every two weeks.

Q When will you fund below 90% on Priority 2 services?

A We cannot yet make that determination. Once we know that we will have sufficient funds, we make commitments on funding requests one discount percentage band at a time (89%, then 88%, and so on) until we run out of funding.

Content Last Modified: May 1, 2003

Need help? You can contact us toll free at 1-888-203-8100.
Our hours of operation are 8AM to 8PM, Eastern Time, Monday through Friday.
Aware of fraud, waste, and abuse, report it to our [Whistleblower Hotline!](#)

FCC Form 471

Approval by OMB
3060-0806**Schools and Libraries Universal Service
Services Ordered and Certification Form**

Estimated Average Burden Hours Per Response: 4 hours

**Instructions for Completing the
Schools and Libraries Universal Service
Services Ordered and Certification Form (FCC Form 471)****CONTENTS**

	Notice to Individuals	page 1
I.	Introduction	page 2
II.	Filing Requirements and General Instructions	page 3
III.	Minimum Processing Standards and Filing Requirements	page 6
IV.	Specific Instructions	page 8
V.	Reminders	page 29

NOTICE

Section 54.504 of the Federal Communications Commission's (FCC) rules requires all schools and libraries ordering services that are eligible for universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator, which is the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC). 47 C.F.R. § 54.504. For purposes of this form, the Universal Service Administrator will be referred to as the "SLD" or "Fund Administrator." The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data collected in Form 471 will be used to ensure that schools and libraries are receiving the appropriate discounts, complying with the eligibility requirements in 47 C.F.R. § 54.501, and taking steps required by 47 C.F.R. § 54.504 that are necessary to use the discounted services effectively. All schools and libraries ordering services eligible for universal service discounts must file this form, individually or as part of a consortium.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of any statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party of a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the Federal government, the taxpayer identification number and other information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund, or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information requested on this form, the processing of your application may be delayed or your application may be returned to you without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.* An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public reporting burden for this collection of information is estimated to average four hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Performance Evaluation and Records Management Branch, Washington, D.C. 20554.

I. INTRODUCTION

On May 7, 1997, the FCC adopted rules providing discounts on all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. Section 54.504 of the FCC's rules require all eligible schools and libraries ordering services under this discount mechanism to certify their eligibility to receive discounts. 47 C.F.R. § 54.504. Section 54.504 of the FCC's rules directs schools and libraries to submit this information on a Services Ordered and Certification Form. 47 C.F.R. § 54.504.

II. FILING REQUIREMENTS AND GENERAL INSTRUCTIONS

A. Who Must File

Form 471 must be filed to request discounts on eligible services for eligible schools, libraries, and consortia of those entities. Form 471 must be preceded by the filing of a FCC Form 470, which must be posted on the SLD web site for at least 28 days before the Form 471 is filed. This 28-day waiting period must occur before you may execute any contracts for contracted services; before you select your service provider for tariffed or month-to-month services; and before you sign and submit your Form 471. It is possible that a Form 470 posted in a prior funding year may be used where such a form resulted in a multi-year contract. (See Form 470 Instructions.)

EACH BILLED ENTITY MUST FILE A FORM 471 APPLICATION. Thus, even if several billed entities together filed a single Form 470, each billed entity must file a separate Form 471.

IMPORTANT NOTE: An entity is considered a "billed entity" if it is responsible for making payments directly to a service provider. An entity that receives a bill, but does not make payments to the service provider on that bill, is not a billed entity. **A billed entity may or may not itself qualify for discounts under the universal service support mechanism for schools and libraries.**

For purposes of the schools and libraries universal service support mechanism, schools must meet the statutory definition of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 8801(14) and (25). An elementary school is a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law. 47 C.F.R. § 54.500(b) and 20 U.S.C. § 8801(14). A secondary school is a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law, except that such term does not include any education beyond grade 12. 47 C.F.R. § 54.500(j) and 20 U.S.C. § 8801(25). In addition, eligible elementary and secondary schools may not have endowments exceeding \$50 million. 47 C.F.R. § 54.501(b)(3).

Libraries must meet the statutory definition of library or library consortium found in the Library Services and Technology Act, Pub. L. No. 104-208, sec. 211 *et seq.*, 110 Stat. 3009 (1996) (LSTA), and must be eligible for assistance from a state library administrative agency under that Act. A library includes: "(1) a public library; (2) a public elementary school or secondary school library; (3) an academic library; (4) a research library, which for the purposes of this definition means a library that: (i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and (ii) is not an integral part of an institution of higher education; and (5) a private library, but only if the state in which such private library is located determines that the library should be considered a library for purposes of this definition." 47 C.F.R. § 54.500(c). A library's eligibility for universal service funding also depends on its funding as an independent entity. **Only libraries whose budgets are**

completely separate from any schools' (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible to receive discounted services under the universal service support mechanism. 47 C.F.R. § 54.501(c)(2). For example, an elementary school library would only be eligible to receive discounted services if its budget were completely separate from the elementary school. If its budget were not completely separate from the elementary school, the elementary school library would not be eligible for support independent from the school with which it is associated.

A library consortium is "any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries." 47 C.F.R. § 54.500(d).

B. When, Where, and How Many Forms 471 to File

Form 471 must be preceded **at least 28 days** by the filing and posting of a Form 470.

For newly contracted, tariffed, or month-to-month services, please note that the **EARLIEST** date on which you may choose vendors or execute contracts or service agreements for those services (the Allowable Vendor Selection/Contract Date) will be expressly identified in a letter sent to each current-year Form 470 applicant to acknowledge the Fund Administrator's receipt of the Form 470 application. The Allowable Vendor Selection/Contract Date will also be indicated on the Form 470 posted on the SLD web site.

The earliest date that a Form 471 can be filed will be the date established by the Fund Administrator as the opening of the Form 471 application "window." The Form 471 application window is the period during which applications will be considered as having arrived simultaneously. All Forms 471, including certifications, received or postmarked by the close of the application window are considered as if they had arrived on the same day, and have priority over those postmarked after the closing date of the "window." For Funding Year 5, the application window will open at noon EST on Monday, November 5, 2001 and close at 11:59 p.m. EST on January 17, 2002.

The Form 471 may be filed either manually or electronically, online. No Forms 471 will be accepted if sent to the SLD via e-mail or fax.

- **Manual Filing Instructions:** You may complete and submit the Form 471 by filing a paper copy of the completed form, including the completed and signed Block 6 Certifications and any attachment(s), with the Fund Administrator. One signed Form 471 must be filed with the Fund Administrator each time the applicant seeks a commitment of funding of discounts for a specific set of services eligible for discounts under the universal service discount mechanism. The signed Form 471 must be filed with the Fund Administrator **at the address listed at the bottom of the form: SLD-Form 471, P.O. Box 7026, Lawrence, Kansas 66044-7026.** For express delivery or U.S. Postal Service Return Receipt, send to: **SLD-Form 471, c/o Ms. Smith, 3833 Greenway Drive, Lawrence, Kansas 66046,** phone (888) 203-8100. **DO NOT**

FILE THIS OR ANY OTHER UNIVERSAL SERVICE FORM WITH THE FEDERAL COMMUNICATIONS COMMISSION.

- **Electronic Filing Instructions:** You may complete and submit the Form 471 by filing the Form electronically online at the SLD web site <www.sl.universalservice.org>. If filing your Form 471 electronically, you must also complete and submit to the SLD the following documents in order to successfully complete the submission of your Form 471 application:
 - the Item (21) description(s) of services, and
 - the Block 6 Certification with the signature of the authorized person (whether paper or electronic)
 - You may qualify to submit your Form 471 certifications online. When you submit your certifications online, you will receive a confirmation so that you can be assured that your submission has met any filing deadlines. Check the SLD web site for information about obtaining a User ID and a PIN.

You may file more than one Form 471. For example, you may file one Form 471 for internal connections, one for Internet access, and one for telecommunications services. Alternatively, you may file a single Form 471 that includes any combination of these services. As the billed entity for services requested on one or more Forms 470, you may combine services requested on multiple Forms 470 into one Form 471, or you may file a corresponding Form 471 for each Form 470 filed. Please refer to the detailed instructions for more information about these procedures.

C. Assistance in Completing This Form

There are several sources of assistance to guide you in completing this form. If you complete this Form electronically online at the SLD web site at <www.sl.universalservice.org>, you will be assisted in the process by special step-by-step online instructions. Whether you file online or on paper, you are urged to consult the Reference Area of the SLD web site, <www.sl.universalservice.org>, for guidance in completing this form. Those without web access may obtain similar guidance material by calling the SLD Client Service Bureau via toll-free telephone at 888-203-8100. Further information is also available from the SLD Client Service Bureau at 888-203-8100; via e-mail at question@universalservice.org; or via fax at 888-276-8736.

D. Compliance

Schools and libraries, or consortia acting on behalf of schools and libraries, failing to file the Services Ordered and Certification Form (Form 471) will not be eligible to receive universal service discounts. Schools and libraries filing false information are subject to fines under Section 502 of the Communications Act, 47 U.S.C. § 502, forfeiture penalties under Section 503(b) of the Communications Act, 47 U.S.C. § 503(b), or penalties for false statements under Title 18 of the United States Code, 18 U.S.C. § 1001. Applicants should retain the worksheets and other records they use to compile these forms for five years. Thus, if applicants represent multiple billed entities, collect data from those entities, and add up that data, they should retain those data sheets for five years. If an applicant is audited, it should be prepared to make the

worksheets and other records used to compile these forms available to the auditor and/or the Administrator, and it should be able to demonstrate to the auditor and/or the Administrator how the entries in its application were provided.

III. MINIMUM PROCESSING STANDARDS AND FILING REQUIREMENTS

Form 471 Minimum Processing Standards

When a Form 471 is received by the SLD, the form is first reviewed to make sure it complies with the following requirements before data entry begins. These minimum processing requirements are necessary in order to ensure the timely and efficient processing of properly completed applications. If a Form 471 fails to meet these requirements, the Form 471 will be rejected. The SLD may be prevented from returning the rejected Form 471 to the sender if the form lacks essential identifying information. If an applicant receives a returned Form 471, it is important that it resubmit the corrected form quickly. Once the corrected form is successfully data entered, the postmark date of that corrected form will be the postmark date for the purpose of the filing window deadline.

Manual Filers

1. Correct Form: Each Form 471 must be:

- a. the correct, OMB-approved FCC Form 471, with a date of October 2000 in the lower right-hand corner;
- b. submitted by regular mail, express delivery, or U.S. Postal Service Return Receipt Requested, or hand delivery. Forms may not be submitted by fax or e-mail. You are advised to keep proof of the date of mailing.

2. Billed Entity Information: In Block 1, each of the following items must be properly completed. The "Billed Entity" is the entity actually paying the bills for the services listed on the Form 471.

- a. Item (1) or (3) Either the Name of the Billed Entity or the Entity Number;
- b. Item (2) – Funding Year
- c. Item 6a – Contact Person Name

If any of these items is blank, and the information cannot be obtained from the page headers, the Form 471 will be rejected.

3. Complete Submission of Form 471: All 6 blocks of the Form 471 must be submitted. If any Block (1-6) is missing, the form will be rejected. Please note that Block 2, which indicates that this Form 471 is being filed to make a minor modification to a previously filed Form 471 will usually be left blank.

4. Block 4 Worksheet: At least one completed Block 4 Worksheet relevant to your application type (see Block 1, Item 5) must be submitted. If a relevant Block 4 Worksheet is not submitted, or the Worksheet is missing information, the form will be rejected.

5. Complete Submission of Each Block 5 Funding Request: Each Block 5 Funding Request must meet the following requirements in order to be data entered as part of the Form 471. If any of the requirements is missing, the Funding Request will be automatically deleted from the form. If all of the Block 5 Funding Requests fail to meet these requirements, the form will be rejected.

Each Block 5 Funding Request must, at a minimum, include:

- a. Item (11) – Category of Service;
- b. Item (13) or (14) – Either the Service Provider Identification Number or the Service Provider Name;
- c. Item (23) – At least one entry with a positive dollar value in Column E, H, I, or K must be completed. Please note that you may not increase your request after filing your Form 471, unless you submit a new Form 471. Therefore, you should take care to enter **ALL** applicable columns of Item (23).

In addition to the requirements listed above for Block 5, if certain components reflect a violation of program rules, they will invalidate the Funding Request featured for that service item. Discounts on services reflected in such Funding Requests will not even be entered into the SLD system; such a Funding Request will be automatically rejected, even while other Block 5 Funding Requests may be honored.

6. Valid Certification: Block 6, Item (34) Signature of authorized person must be completed. If Item (34) is left blank, the Form 471 will be rejected.

Online Filers:

When Blocks 1-5 of a Form 471 are submitted electronically, the applicant must also (1) submit the completed and signed Block 6 certification manually by mail, express delivery or U.S. Postal Service Return Receipt Requested or (2) submit the completed Block 6 certification online with a User ID and a PIN. If the Block 6 certification is submitted manually, you are advised to keep proof of the date of mailing. The Block 6 certification is reviewed to make sure it complies with the requirements listed in # 6 above. Reviewers also look for the Form 471 Application Number before the Certification and Signature Page is accepted and the Form 471 reaches “certified” status. If the Block 6 certification document lacks the information necessary to match your manually submitted certification with the electronically filed Blocks 1-5 of the form, then your application will not meet the application window filing requirements.

Filing Requirements for Forms 471 Submitted Manually and Online:

1. Application Materials: The following materials associated with Funding Year 5 Form 471 must be received by 11:59 p.m. EST on January 17, 2002 or postmarked on or before January 17, 2002 in order for the request to receive consideration as inside the window. These materials are:

- The Form 471 itself (whether electronic or paper)
- The Block 6 certification of the Form 471 with the signature of the authorized person (whether electronic or paper)
- The Block 5 certification of any Form 470 cited in a Year 5 Form 471 with the signature of the authorized person.

2. Item 21 Attachment Labeling: Label your attachment as "Item 21 Attachment," and include the application number of the Form 471 it supports, or use the Applicant Form Identifier if you file manually. Be sure to label the attachment to correspond with each Block 5, Item (21) of your application.

Form 470 Certification: A completed Form 470 Certification is a Block 5 certification with the signature of the authorized person. Forms 470 with completed certifications submitted in a previous year meet this requirement, as do those filed for Year 5 and submitted to the SLD with a postmark date on or before January 17, 2002. Any Year 5 Form 471 Block 5 funding request based on a Form 470 whose certification has not been received by 11:59 p.m. EST on January 17, 2002 or postmarked on or before January 17, 2002 will be rejected.

January 17, 2002 Deadline: Failure to make the January 17, 2002 deadline for Form 471 application materials will place the entire application outside the window, and the applicant's funding will be jeopardized.

IV. SPECIFIC INSTRUCTIONS

You are encouraged to complete and submit this form electronically, online. It will be available on the SLD web site at <www.sl.universalservice.org> along with instructions for filing electronically using the web site. Alternatively, for manual submissions, you may download a fill-in, print-out version of the form also available on the SLD web site at <www.sl.universalservice.org> If you file paper copies of the application, please type or clearly print in the spaces provided and attach additional pages if necessary and when required.

A. Top of Form

The data at the top of Form 471 will help both you and the SLD identify each particular Form 471 you file.

“Do Not Write In This Area” - The SLD uses this space to apply a bar code to your form upon receipt, so that we can properly track and archive your form.

Applicant's Form Identifier - If you are filing more than one Form 471, please use this space to assign a unique number or letter of your own devising to facilitate communication with us about THIS particular Form 471. This Applicant's Form Identifier can be very simple; for example, if you are filing three Forms 471, you might label them “A,” “B,” and “C.” The Applicant's Form Identifier can also be descriptive, such as “School Internet.” Choose identifiers that suit your own record keeping needs.

Form 471 Application Number - The SLD will assign and insert your Form 471 Application Number. Leave this item blank.

Top of each page after page 1: If you are filing this application manually, to help alleviate problems caused if the pages of an application become separated, please provide the Entity Number (from Item 3, below), your Applicant's Form Identifier, and name and phone number of the contact person (from Item 6, below) at the top of each page of the application in the space provided.

B. Block 1: Billed Entity Information

Block 1 of Form 471 asks you for your address and basic identifications. "You" refers throughout this form to the billed entity – the party actually paying bills for the eligible schools and libraries listed in this application form.

Item (1) - Provide the name of the billed entity. As the billed entity, you may be an individual school, a school district that is the billed entity for its schools, a library (outlet/branch, system), or a consortium of those entities. You may also be a city, a state, or an entity created solely to participate in this universal service discount mechanism, but only if you are the billed entity, in that you actually pay the bills for the service to the service provider. **The billed entity itself may or may not be eligible for discounts.**

Item (2) - Funding years begin on July 1 and end on June 30 each year. For example, Funding Year Four (4) runs from July 1, 2001 to June 30, 2002. Provide the funding year for which you are applying for funds by filling in the appropriate year in the blanks provided (e.g., July 1, 2001 through June 30, 2002).

Item (3) - Your Entity Number is a unique number assigned to your organization or institution by the SLD as a means of identifying you every time you file an application or otherwise communicate with us. If you have applied for universal service funds in previous years, or have been identified in an application filed on your behalf, you have already been assigned an Entity Number. If you do not have a record of your Entity Number, or if you have never been assigned such a number, please call the SLD Client Service Bureau at 888-203-8100.

Items (4)(a)-(d) - Provide your full mailing address, whether a street address, Post Office Box number, or route number. You are strongly encouraged to provide a street address rather than a Post Office Box if possible, as the Fund Administrator may need to contact you via overnight or express delivery. In addition, please provide your telephone number (with area code and extension), fax number, and e-mail address (if you have one).

Item (5) - Check the one box that best describes the type of application you are filing. If you are filing as a school, you should check the first box. If you are filing as a school district, you should check the second box. If you are filing as a library (outlet/branch, system), you should check the third box. If you are filing as a consortium, you should check the fourth box. (You may be a consortium of schools, libraries, or some combination of the above which may or may not include ineligible entities. If you are filing as a library consortium, you should check the fourth box.)

In addition, if you are a consortium that includes non-governmental entities ineligible for universal service support, please check the box provided to indicate this. Non-profit 501(c)(3) organizations are NOT governmental entities. [Note: Consortium members eligible for universal service support such as "rural health care providers" should be treated as "governmental entities" for the purpose of these categories.] If your consortium includes ineligible non-governmental entities, you should note that you cannot negotiate pre-discount prices below tariff rates for interstate services from incumbent local telephone companies.

Item (6)(a) - Provide the name of the person who should be contacted with questions about this application. This person should be able to answer questions regarding the information included on this form and the services you request.

Items (6)(b)-(f) - If the contact person's address, phone number, fax number, or e-mail address is different from those specified for the applicant (completed in Item (4)), please provide that information here. You MUST then check your preferred mode of contact. Wherever possible, the SLD will use this mode to contact you. In addition, in Item (6)(f), you may choose to provide an alternate telephone number, address, contact name, or special operating hours that we may use to reach you during holiday/vacation/summer periods.

C. Block 2: Minor Modification to Existing Contract or Service Agreement

Item (7) - Before completing this item, please check for guidelines at the SLD web site, <www.sl.universalservice.org> or by calling the SLD Client Service Bureau at 888-203-8100. The occasions for required use of this item will be identified each funding year. This item may be filed manually ONLY. No online filings will be accepted for this item. In general, you will use this item ONLY to propose a minor modification (such as a substitution of eligible services) to one or more existing contracts or service agreements for which you have already filed a Form 471 for the current program year. Such a modification must be considered minor according to your own local procurement rules, and cannot under any circumstances increase the size of your original request. In order to propose a minor modification to an existing

contract or service agreement described in a previously filed Form 471, you must already have been notified by the Fund Administrator via a Receipt Acknowledgment Letter (RAL) that your original Form 471 has been received and entered into the data system. You may file a minor modification request using Item (7) at any time after receiving the RAL. The RAL will provide a Form 471 Application Number and a Funding Request Number (FRN) for the affected service. You **MUST** provide this Form 471 Application Number and FRN in Item (7) in order to successfully submit a minor modification request. You will then skip the remainder of the form, attach an Item (21) description of services for the affected service only (highlighting the change from the originally filed description), and sign Block 6.

D. Block 3: Impact of Services Ordered in This Application

Block 3 asks for data to help the Fund Administrator document the potential impact of the universal service program for schools and libraries across the country, and compare that impact from year to year. Block 3 requests data pertinent to **THIS** application only. If you file multiple applications, you may provide different data in this section in each application. You need complete only those items that are relevant to your application. Please use precise data wherever possible, and your best estimates wherever necessary.

Items (8)(a)-(b) - Quantify the number of people affected by the services ordered in this application. Schools/school districts should complete (8)(a), libraries should complete (8)(b), and consortia should complete either or both as appropriate.

Item (8)(a) - If your application includes eligible K-12 schools, provide the total number of students that will potentially be affected by the services ordered in this application.

Item (8)(b) - If your application includes eligible libraries, provide the approximate number of patrons potentially affected by this application, as defined by the number of cardholders you serve or other estimates of regular library users.

Items (9)(a)-(k) - These questions ask you to quantify the expected outcomes of the services you are ordering with this application. The questions focus on typical benchmarks of technology development for schools and libraries, and request data about these benchmarks before and after your order as reflected in this Form 471. Some are more relevant to certain types of applicants than others. **Please answer ALL the questions that are relevant to your situation and THIS application.** If the quantity or capacity of a service you order remains the same before and after your order, please complete that question by entering the same data in both columns.

Item (9)(a) - If you are ordering telephone service to reach classrooms, please indicate how many classrooms had telephone service before and after your order.

Items (9)(b) and (9)(c) - If your order includes high-bandwidth voice/data/video service provided by a telecommunications provider, please indicate in (9)(b) how many buildings had such service before your order and how many will have such service after your order. In (9)(c), indicate the highest speed of such service to a building before and after your order. If this service also provides your buildings with Internet access, please be sure to quantify that access by completing Item (9)(i).

Item (9)(d) and (9)(e) - If your order includes dial-up Internet access, please identify in (9)(d) the number of dial-up connections before and after your order. In (9)(e), indicate the highest speed of such connections before and after your order. If you complete this item, please also complete (9)(h)-(j).

Item (9)(f) and (9)(g) - If your order includes direct access to the Internet via lines identified in this application for Internet access only, please indicate in (9)(f) the number of such connections before and after your order. In (9)(g), indicate the highest speed of such connections before and after your order. If you complete this item, please also complete (9)(h)-(j).

Item (9)(h) - If your application includes schools and provides for Internet access either directly or indirectly, please provide your very best estimate of the number of rooms with Internet access before and after your order. Please also complete (9)(j).

Item (9)(i) - If your application includes libraries and provides for Internet access either directly or indirectly, please provide your very best estimate of the number of buildings (including bookmobiles) with Internet access before and after your order. Please also complete (9)(j).

Item (9)(j) - Provide your best estimate of the number of computers or other devices (such as television sets, hand-held units, network terminals, and other non-PC Internet appliances) that had Internet access before your order, and how many will have Internet access after your order. These devices may access the Internet directly or via a local area network. If you complete this item, be sure to also reflect the quality and capacity of that access by completing Items (9)(b) and (c), and/or (d) and (e), and/or (f) and (g).

Item (9)(k) - Use this item to describe any other relevant outcome of your order not captured in the items above. We are particularly interested in new and emerging technology solutions made possible by eligible services ordered in this application.

E. Block 4: Discount Calculation Worksheets

This block consists of three separate worksheets designed to meet the needs of those filing as:

- Schools/school districts – Worksheet A (see step-by-step instructions).
- Libraries (outlet/branch, system) – Worksheet B (see step-by-step instructions).
- Consortia – Worksheet C (see step-by-step instructions).

Each worksheet includes its own instructions and its own step-by-step discount calculation chart.